scale of Verizon's network operations have had a significant downward *impact* on the prices Verizon must pay for new network equipment.

11. For example. testimony offered by Bell Atlantic/GTE **in the** 1998 **FCC proceeding** to consider the Joint Application of Bell Atlantic and GTE **for approval of their** merger indicated that following the merger the companies' costs of equipment purchases would decrease substantially due to the increased **purchasing power** of **the** newly formed **wmpany, Verizon,** relative **to that of a** stand alone CTE Specifically. the Declaration of **Doreen Toben**, Vice Resident and Controller **of** Bell Atlantic Corporation stated that the "merger of Bell Atlantic and GTE will produce substantial **cost savings** and revenue Improvements that **are** hard. real, and certain."[12] According **to** Toben, Bell Atlantic had exceeded its projected savings and revenue enhancement resulting from its merger with "" **EX** :The very substantial cost savings estimated at the time of the Bell Atlantic-" EX merger **were** subsequently increased and the increased targets are being **achieved**."[13]

12. Other RBOCs have also characterized the cost savings from increased purchasing

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11 (continued) September. 2002

12 *In the Matter of* ***GT€ Corporation. Transferor. and Bell Atlantic Corporation,*** *Transferee. For Consent to* ***Transfer*** *of Control*. **CC** Docket No. 98-184, Declaration of Doreen Toben. September 30, 1998. at para **2.**

13 *id.* at para 7

power as an inducement to merge, and a source of significant realized cost savings. For example, testimony offered by SBC in the 1998 Connecticut DPUC proceeding to consider the Joint Application of SBC and SNET for approval of their merger[14] indicated that following the merger SNET's costs of equipment purchases would decrease substantially due to the increased purchasing power of SBC relative to that of a stand-alone SNET. Specifically, SBC indicated *that* it expected cost savings synergies from the merger "particularly from using SBC's scope and scale to drive costs out of the business."[15] SBC stated that it has "learned from the SBC/Pacific Telesis merger that scope and scale, especially in the purchasing area, are tangible and significant."[16] SBC's Managing Director - Corporate Development stated that "we know that SNET pays over 20 percent more for purchases of switching and transport equipment than we do at SBC."[17] SBC also indicated that the savings experienced in contract negotiations for the combined SBC/Pacific Telesis "tend to support the consultants' estimates" during the SBC/PTG merger discussions of procurement savings (expense and capital) in the 7%-10%

14 *Joint Application of SBC Communications, Inc. And Southern New England Telecommunications Corporation for Approval of a Change of Control,* Connecticut Department of Public Utility Control Docket No. 98-02-20.

15 Exhibit A to SBC Response to MCI-4, "Remarks for Don Kiernan, Kathy Dowling, Jim Ellis, John Klug and Don Shassian, SNET Acquisition and Constitutional Challenge Victory," January 5, 1998, at SBCSNET004573 in *Joint Application of SBC Communications, Inc. and Southern New England Telecommunications Corporation for Approval of a Change of Control,* Connecticut Department of Public Utility Control Docket No. 98-02-020.

16 *Id.*

17 *Id.*

range.[18]

13. There is no reason to believe that Verizon DC has not been able to realize a similar magnitude of cost reductions for purchases of capital goods, including (but not limited to) switching equipment as a result of Verizon's merger activity. Verizon DC has not presented any evidence in this proceeding that its 'interim" UNE rates were cost-based when they were established over five years ago. However. even if they were cost-based then the "interim" UNE rates that have remained in place do nor reflect the intervening mergers' impacts on Verizon DC's purchasing power. and thus the lower prices the Company would pay for digital switching equipment today. Consequently. the unbundled pon and local switching rates that Verizon DC charges today do not adequately reflect the Company's forward-looking. TELRIC costs, and cannot be said to comply with the Section 251(d)(1) pricing standard for UNEs.

14. In contrast to the unchanged UNE rates in the District, Venzon DC's retail basic exchange rates have been reduced on several occasions since the establishment of its altemative regulation plan in 1996 According to the 1999 stipulation between OPC and the Company that extended that plan for two more years. "[d]uring the first four years of the Plan's options, BA-DC has reduced basic rates to residential customers by $4.800,000 and to busmess customers by

18 *Id.*, SBC Response to OCC-12

$8,8000,000."[19] That stipulation also called for another **$4.3-million in basic** exchange rate reductions over the following two years.[20] **Given** that the underlying network **facilities are** essentially the same, these **retail** price reductions are further evidence that Venzon **DC's** "interim" UNE rates **are** no longer cost-based.

15. Not surprisingly, the UNE rates approved by various state public **utility** Commissions ("PUCs") in Verizon's service **area** and determined to be TELRIC-compliant have reflected the declining cost **trends** I have discussed above, **as** evidenced by the substantial reductions in UNE rates that have occurred in recent **years.** Tables 1-4 below demonstrate the decline in UNE rates in several Venzon East (*i.e.*, former Bell Atlantic and **E Xs)ates** in which prior UNE rates were re-examined for TELRIC compliance by state public utility commissions.[21] In **many cases,** those rates **are**

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19 *In the Matter of Investigation into* ***the Impact of the AT&T Divestirure and Decisions of the Federal Communications Commission on Bell Atlantic - Washington, D.C. Inc.'s*** *Jurisdictional Rates*, FC No. 814. Phase IV, ***Joinr Motion to Extend the Price Cap Plan for the*** *Provision of Bell Atlantic -* ***Washington, D.C., Inc.'s Telecommunicarions Services in the District*** *of Columbia*, September 2, 1999, **at 2.**

20 *Id.*, at 4

21 Venzon's UNE rates are currently under review in two other major Verizon East states. Venzon Maryland's **UNE** rates have been under review in the Maryland Public Service Commission's comprehensive cost proceeding, Case No. 8879, but the final **order** is pending. In addition, **the FCC's** Wireline Competition Bureau is reviewing con studies relating to Verizon Virginia's provision **of** interconnection and UNEs in the second phase of a consolidated arbitration ***case*** that the Virginia State Corporation Commission declined to arbitrate. ***See. Memorandum Opinion and Order, In the***

(continued...)

significantly lower than the UNE rates currently charged by Verizon DC

Table 1			
Verizon's UNE Loop Rates (Zone 1, per month)			
State	Previous Rate	TELRIC-Compliant Rate	Change
District of Columbia	$ 10.81	TBD	
Massachusetts	$ 7.54	$ 7.54	0%
New Jersey	$ 13.39	$ 8.12	-39%
New York - Zone 1A	$ 11.83	$ 7.70	-35%
Pennsylvania	$ 10.65	$ 10.25	-4%

16 For example. the TELRIC-compliant recurring UNE rates **for 2 Wire Analog Loops in** several Verizon states have undergone substantial rate reductions in recent years, whde Verizon DC's

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21 (...continued)
Matter of the Petition of WorldCom . Inc. Pursuant to Section 252(e)(5) ***of*** *the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes nith Verizon Virginia Inc., andfor Expedited Arbitration. CC* Docket *No.* 00-218. *In the Marter of Petition of Cox Virginia Telcom. Inc. Pursuant to Section* ***252(e)(5)*** *of the Communications Act for Preemption of the Jurisdiction* ***of*** *the Virginia Stare Corporation Commission Regarding Interconnection Disputes nirh Verizon-Virginia, Inc. ondfor Arbitration. CC* Docket *No 00-249;* ***In*** *the Matter of Petition of AT&T Communications of Virginia Inc., Pursuant to Section 252(e)(5) of the Communications Act for Preemption* ***of*** *the Jurisdiction of the Virginia Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc . CC* Docket No. 002-51. *Memorandum Opinion and Order,* Rel. *July 17,2002 ("Virginia Arbitration Order"),* at paras. *8-16.*

"interim rates" have remained unchanged (see Table 1).[22] In 2001. Venzon New Jersey[23] was ordered to decrease the rate established in 1997 for unbundled Zone 1 loops 1 by 39 percent. from $13.39 to $8.12. Similarly, in 2002, Verizon New York's Zone 1A loop rates were lowered 35 percent. from the $1 1.83 rate established in 1999 down to $7.70. In Massachusetts, the UNE loop rate of $7.54 was established in 2000. and the Massachusetts Department of Telecommunications and Energy ("DTE") is currently in the midst of reviewing this and other unbundled network element rates in DTE Docket 01-20.[24] In each of these states, the TELRIC-compliant UNE loop rate is far below Verizon DC's "interim" rate of $10.81.[25]

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22. Thr source tariff pages for Tables 1 through 4 appear in Attachment 4 to my Affidavit. However. the Vernon New Jersey UNE rates were drawn from Orders of the New Jersey Board of Public Utilities. which are cited in footnote 23. Verizon DC's "interim" UNE rates are from the Venzon DC Checklist Declaration, Attachment 203(i), Appendix A to the Pricing Attachment: the pending permanent rates are marked "To Be Developed" ("TBD").

23. *Investigation Regarding Local Exchange Competition for Telecommunicarions Services.* New Jersey Board of Public Utilities, Docket No. TX95120631, (Dec. 2, 1997), Anachment 1: *In the Matter of the Board's Review of Unbundled Network Elements Rates. Terms and Conditions of Bell Atlantic-New Jersey. Inc.*, New Jersey Board of Public Utilities, Docket No. TO00060356, (Nov. 20. 2001). Anachment A.

24. *Investigation by rhe Deparrmenr of Telecommunications and Energy on its own Motion into the Appropriate Pricing. based upon Total Element Long-Run Incremental Costs.for Unbundled Network Elements and Combinarions of Unbundled Network Elements. and the Appropriate Avoided-Cost Discount for Verizon New England, Inc. d/b/a Verizon Massachusetts' Resale Services in the Commonwealth of Massachusetts*, Massachusetts DTE Docket No. 01-20.

25. As shoun. Vernon's UNE loop rate in Pennsylvania is also lower, $10.25 compared to $10.81

Table 2 Verizon's Port Rates (per month)			
State	Previous Rate	TELRIC-Compliant Rate	Change
District of Columbia	$ 1.55	TBD	
Massachusetts	$ 5.52	$ 2.00	-64%
New Jersey	$ 1.90	$ 0.73	-62%
New York	$ 2.50	$ 2.57	3%
Pennsylvania	$ 2.67	$ 2.67	0%

State	Previous Rate	TELRIC-Compliant Rate	Change
District of Columbia	$0.003000	TBD	
Massachusetts	$ 0.004647	$0.001500	*-68%*
New Jersey	$0.005418	$0.002773	-49%
New York			
Day	$0.003806	$ 0.001147	*-70%*
Evening	$0.001837	$0.001147	-30%
Night	50.001508	$0.001147	-24%
Pennsylvania	50.001802	$0.001802	0%

18. TELRIC-compliant **rates** for local switching have **also** undergone dramatic decreases in rates (and. in some cases. changes in **structure)** over the **past** two years **(see** Table **3).** For example. Verizon New **York's local** switching rates used to follow a **Day/Evening/Night rate structure**, and the originating and terminating rates were identical. In **2002,** not **only** did the **rate structure** change to mate a single **originating** and terminating me, **but** the rates **m** effect were dramatically lower **originating** and terminating rates were set 70% and 71% below previous "Day" levels, **respectively**.[26] Local switching rates in Massachusetts have been lowered **by as much as 68% since 2000,** while **originating** and terminating rates in **New Jersey** were lowered by 49% and 22%, **respectively,** in 2001.

Table 4

DS3 Interoffice Transport - (Density Cell 1, per mile per month)

State	Previous Rate	TELRIC-Compliant Rate	Change
District of Columbia	$ 180.00	TBD	
Massachusetts	$ 20.44	$ 20.44	0%
New Jersey	$ 13.40	$ 7.48	-44%
New York	$ 20.10	$ 15.21	-24%
Pennsylvania	$ 18.66	$ 16.94	-9%

26 The decrease in New **York** pon and local switching rates **also** resulted in Verizon *voluntarily* reducing its pon and local switching rates in Rhode Island by **55%** and 54%. respectively, at the **time** when Verizon was seeking Section 271 authority for that state. ***See. Unbundled Local Switching and Analog Line Port Rates - Verizon Rhode Island's Section 271 Compliance Filing,*** State of **Rhode** Island and Providence Plantations Public Utilities Commission Docket No. **3363, *Order,* February 20,** 2002. 2002 R.I PUC LEXIS 9.

High capacity digital interoffice transport facilities is another UNE category that has experienced rate reductions in other Venzon East states over the past few years. For example. consider Venzon's recurring rates for DS3 interoffice transport mileage (see Table 4). In New York, Verizon's DS3 mileage rate fell 24% earlier this year. from the S20.10 rate previously established in 2001. to S15.21 Last year in New Jersey, Verizon's DS3 mileage rate fell 44%, from the $13.40 established in 1997, to S7.48. Verizon Pennsylvania and Verizon Massachusetts have current rates of S16.94 and $20.44. respectively. In contrast, Verizon DC's "interim" rate for unbundled DS3 interoffice transport mileage rate remains sei at $ 180.00 per mile, over 780% higher than the Verizon Massachusetts rate. and 2300% higher than the rate in effect in New Jersey. Obviously, Verizon DC's current DS3 interoffice transport rate is dramatically in excess of cost and by no means TELRIC-compliant.

19 In light of the declining cost trends that I explained earlier. the substantial decreases in UNE rates elsewhere in Verizon's service territory, and the fact that Verizon DC's "interim" UNE rates have not been adjusted for more than five years. Venzon DC's current UNE rates cannot be considered io be TELRIC-based. Moreover, to the extent that Verizon DC's UNE rates are substantially – and in some cases, such as for DS3 transport mileage, exorbitantly – above cost, they are discriminatory and create an anti-competitive barrier to entry that reduces *the* prospects for local competition in the District. Therefore. until such time as the Commission establishes new TELRIC-compliant rates (*i.e.*, by issuing a final decision in Formal Case No. 962), Verizon DC cannot be found to be providing access io network elements in accordance with sections 251(c)(3) and 252(d)(1) ofthe

1996 **Act.**. and therefore is not in compliance with Checklist Item 2.

Checklist Item 2: Verizon DC's new wholesale billing system, ExpressTRAK, requires additional performance measures to ensure nondiscriminatory access to the Verizon OSS.

20. In its OSS Declaration, Verizon asserts that the "interfaces through which CLECs obtain access to Verizon's OSS are... the same interfaces that the FCC has reviewed and approved in connection with Verizon's 271 applications for New York, Massachusetts, Connecticut, Pennsylvania, Rhode Island. Vermont. Maine and New Jersey."[27] While this is true, it is not the entire *story.* In addition to the OSS *interfaces*, the FCC has in those prior applications reviewed numerous back-end OSS systems with which the interfaces must interact. Successfully processed CLEC orders must work their way through *both* the OSS interfaces and those back-end systems. which demands a high degree of inter-operability among all of the systems involved. However. the Verizon DC application presents a new ordering and billing system. known as "ExpressTRAK" that has never before been reviewed or addressed by the FCC in connection with its review of any Verizon section 271 application.[28] The

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27 OSS Declaration on Behalf of Verizon Washington DC, Inc. ("OSS Declaration"), at para. *17.*

28 *Bell Atlantic New* ***York Order.*** *3996* para. *95:* ***Application of Verizon New England Inc., et al. for Authorization to Provide In-Region. InterLATA Services in Massachusetts,*** CC Docket No. 01-9. ***Memorandum Opinion and Order,*** Rel. April **16,2001, 16** FCC Rcd ***8988,9047*** para. 105 ("***Verizon Massachusetts Order"); In the Matter of Application of Verizon Pennsylvania Inc. Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc. for Authorization To Provide In-Region. InterLATA Services in Pennsylvania***, CC Docker No. 01-138. ***Memorandum Opinion and Order,*** Rel. September ***19,***

(continued...)

Virginia Hearing **Examiner also** made **this** observation. and noted that Venzon placed a misleading emphasis upon the pnor OSS reviews conducted by the FCC:

> Throughout its testimony, Verizon Virginia stresses **that the** OSS deployed in Virginia is the same process and procedure approved by the FCC in **other** states. However, a closer examination reveals *that* Verizon **V i s** OSS is something of a tapestry of system some deployed **throughout** the entire old Bell Atlantic fourteen-state footprint, others deployed **throughout** only the old Bell Atlantic – South footprint, and still othm deployed in only the old C&P Telephone **area.** Generally, the interfaces and gateway systems **are** the same **through** the entire old Bell Atlantic fourteen-state footprint. ExpressTRAK and other back-end systems **are** unique to the old C&P Telephone area [29]

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28. (...continued)
2001. 16 **FCC** Rcd *17419, 17431* para. 22(*"Verizon Pennsylvania Order"*); ***In*** *the Matter* ***of*** *Application by Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions). Verizon Global Networks Inc., and Verizon Select Services Inc.,* ***for*** *Authorization To Provide In-Region, InterLATA Services in Rhode Island.* CC Docket *No.* 01-*324. Memorandum Opinion and Order,* Rel. February 22, 2002, 17 FCC Rcd *3300.* at para **58**(*"Verizon Rhode Island Order"*); ***In*** *the Matter of Application by Verizon New England Inc., Bell Atlantic Communications. Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions). Verizon Global Networks Inc.. and Verizon Select Services Inc., for Authorization To Provide In-Region, InterLATA Services in Vermont,* CC Docket *No. 02-7, Memorandum Opinion and Order,* Rel April 17, 2002, 17 FCC Rcd *7625,* at pan. 7 *("Verizon Vermont Order"); Application* ***of*** *Verizon Maine Inc., Verizon Long Distance. Verizon Enterprise Solutions, Verizon Global Networks Inc., and Verizon Select Services Inc. for Authorization to Provide In-Region, InterLATA Services in Maine.* CC Docket *No.* 02-187. *Memorandum Opinion and Order,* Rel. June 19, 2002, 17 FCC Rcd 11659. at para. 7(*"Verizon Maine Order"); Verizon New Jersey Order*, at fn 348

29. *The Inquiry Into Verizon Virginia Inc.'s Compliance with the Conditions Set Forth* ***In*** ***47*** *U.S.C. § 271 (c),* Before the Virginia State Corporation Commission, Case No. **PUC-2002-00046,** (continued...)

As the ExpressTRAK system is not yet fully implemented in Virginia,[30] Maryland[31] or the District,[32] the system may still experience initial or start-up problems, especially if CLEC order volumes increase. A related problem is that the thud-party testing of billing processes that Verizon DC relies upon did not include any confirmation that Verizon DC is charging the correct Commission-approved wholesale rates to CLECs operating in the District.[33] Receiving timely and accurate wholesale bills is a critical issue for CLECs, who often must devote scarce internal resources to verifying those bills and negotiating redress of errors when they *can* be identified. Before finding Verizon DC's OSS to be compliant with Checklist Item 2, the Commission should require the Company to affirmatively demonstrate that ExpressTRAK is functioning with a minimum of errors and is rendering wholesale bills for services in the District in an accurate manner. Moreover, the Commission should closely monitor the performance of the ExpressTRAK *system* to ensure that any problems are resolved quickly.

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29 (continued)
Report of Alexander F. Skirpan, Jr., Hearing Examiner, July 12, 2002, at 61

30 *The Inquiry Into Verizon Virginia Inc.'s Compliance with the Conditions Set Forth In 47 U.S.C. § 271 (c)*, Before the Virginia State Corporation Commission, Case No. PUC-2002-00046, OSS Declaration of Behalf of Verizon Virginia Inc., at fn. 12.

31 *The Inquiry Into Verizon Maryland Inc.'s Compliance With The Conditions Set Forth In 47 U.S.C. § 271 (c)*, Before the Maryland Public Service Commission, MPSC Case No. 8921. OSS Declaration of Behalf of Verizon Maryland Inc., at fn. 11.

32 OSS Declaration, at fn. 11

33 Verizon DC response to AT&T 2-9(b). As explained below, Verizon DC also disavows the only performance metrics that address its wholesale billing accuracy in the District.

21. However, the Commission's ability to monitor the Verizon wholesale billing systems is limited by Verizon's removal of all Performance Indicators related to billing accuracy. Verizon notes that as of September, 2002, it will discontinue two performance measures (BI-3-01 and BI-3-02) related to accuracy of amounts billed by Venzon to CLECs.[34] Though Verizon is correct that the methodology of these measures, as previously applied, was flawed, Verizon's proposal to discontinue the performance measures without replacement is unacceptable. This Commission should require that Venzon DC and other interested parties work jointly to develop replacement indicators relating to billing accuracy, to ensure that CLECs obtain timely and accurate wholesale bills in the future.

Checklist Item 4: Verizon DC's reported intervals for nondispatch installations are significantly longer for CLEC orders than for its own retail orders, and Verizon DC's performance in this area should be closely scrutinized by the Commission to ensure that the Company is not discriminating against CLECs.

22. One of the most important demonstrations that Verizon DC must *make* in order to be rewarded with Section 271 approval is to show that it provisions CLEC orders in a timely and non-discriminatory manner. There are several memcs that evaluate Verizon DC's provisioning performance. For orders of one to five (1-5) access lines, the PR-3 (Completed within Specified Days) series repons the percentage of orders that were completed within specific time intervals of one day, two days and up to five or more days. The PR-3 memc is reported separately for Retail services,

34 OSS Declaration, at para 132

Resold services (POTS and Special Services combined) and UNE services, and is disaggregated for services requiring a Dispatch (*i.e.*, a customer premises visit by a Verizon technician) versus those with No Dispatch required. For orders of more than five **lines, PR-3 is replaced by PR-2** (Average Completed Interval), which reports the average time interval (in **days) by** which those **orders** were completed, without the day-today detail provided by **PR-3.** Verizon **also** supplies the **PR-I series,** which reports on **the** Average Interval **Offered.** *i.e.*, the time interval **between** Verizon **DC's** receipt of a valid order and the scheduled installation date it assigns to **that order. As** I shall explain below, while Verizon reports that it meets the parity test for orders with **more than six lines** and for **orders** of **1-5** lines that require **a** Dispatch, it generally has failed to show **parity** for **orders** of **1-5** lines with No Dispatch required.

23. Table 5 below displays in summary form Verizon's reported parity/non-parity results for the PR-3 metric. **As** shown, Verizon failed the PR-3, No Dispatch test **four** times **out** of twelve **in** the resale category; and six out of twelve times in **the** UNE category. While it may be difficult to discern a pattern in these failures to achieve parity, it is evident that Verizon is experiencing **significant** problems with provisioning Non-dispatch loops. Allowing Verizon to continue to provide substandard performance in the area of wholesale service installation exacerbates the problems CLECs **are** experiencing in their efforts to compete and to attract and serve customers.[35] **Thus,** the **PR-3 metric** needs to be closely monitored by the Commission.

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35 See the affidavit of Dr. Lee Selwyn, OPC EX **A.** at paras. **22-33.**

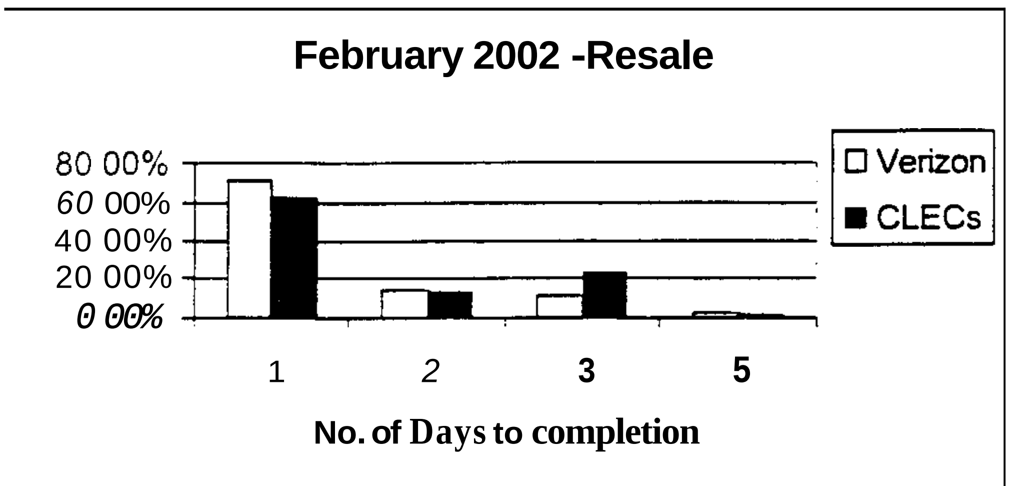
Table 5 Verizon DC's Reported Parity Results for PR-3 Metrics – No Dispatch					
Metric	Service	Time Interval	Feb-02	Mar-02	Apr-02
PR-3-01-2100	Resale POTS	One day	Failed	Failed	Passed
PR-3-02-2100	Resale POTS	Two days	Failed	Failed	Passed
PR-3-03-2100	Resale POTS	Three days	Passed	Passed	Passed
PR-3-08-2100	Resale POTS	Five days	Passed	Passed	Passed
PR-3-01-3142	UNE[1]	One day	Failed	Failed	Failed
PR-3-02-3142	UNE[1]	Two days	Failed	Passed	Passed
PR-3-03-3142	UNE[1]	Three days	Failed	Passed	Passed
PR-3-08-3142	UNE[1]	Five days	Failed	Passed	Failed

UNE POTs (Provisioning) includes Platform and "other" (UNE Switch & INP)

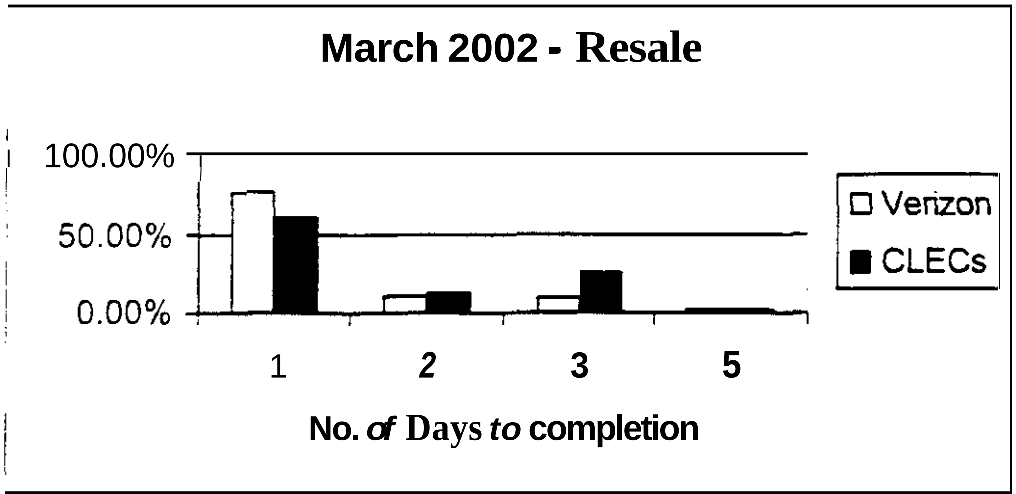
Source Verizon DC Measurement Declaration. Attachment 402, Resale - Provisioning, pages 2-3, 5 and UNE - Provisioning, page 7.9

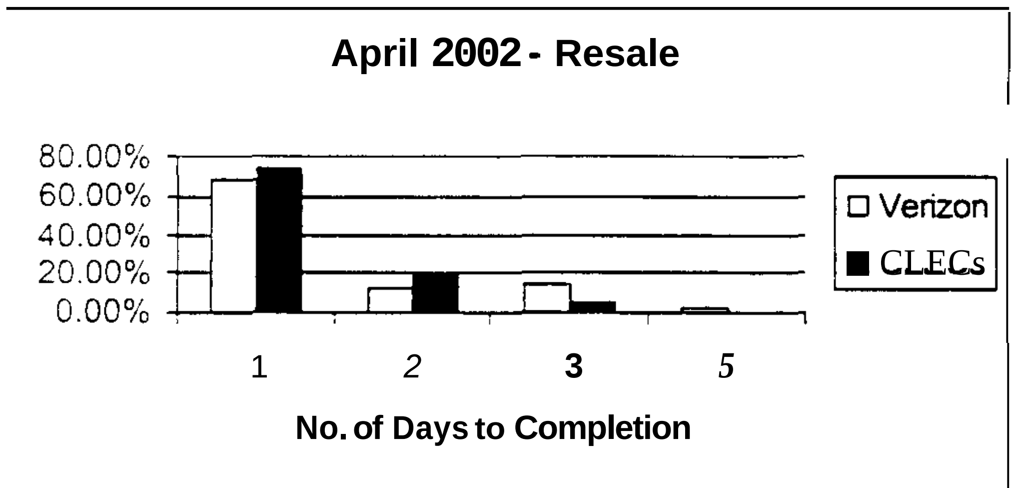
24 These conclusions are reinforced by reviewing the details of Verizon's installation performance as reported in PR-3 from a slightly different perspective. as evident from the following bar

graphs [36] The first set of bar graphs portray Verizon DC's resale performance for CLECs for the three month period ending April, 2002 (*i.e.*, all of the monthly data supplied by Verizon DC in support of its application). The second set of bar graphs compare Verizon DC's retail performance against its UNE performance on the same metrics. As they demonstrate, Verizon DC generally appears to be installing "No dispatch" services for its own retail customers in a more timely manner than it installs "No dispatch" resale and UNE lines for its competitors.



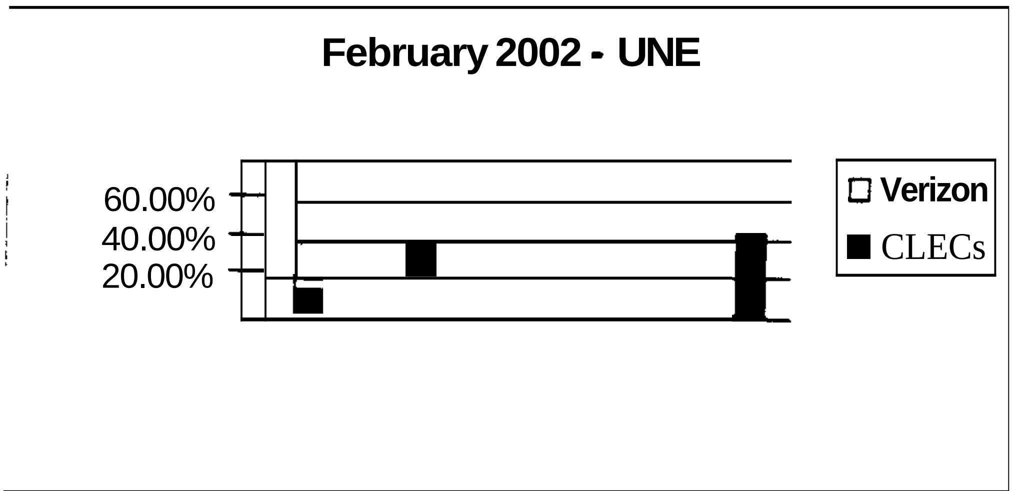
[36] These bar graphs draw upon the same data sources as Table 5, namely, Verizon DC Measurement Declaration, Attachment 402, Resale - Provisioning, pages 2-3, 5 and UNE - Provisioning, page 7-9


March 2002 - Resale
100.00%
50.00%
0.00%
1
2
3
5
No. of Days to completion
Verizon
CLECs

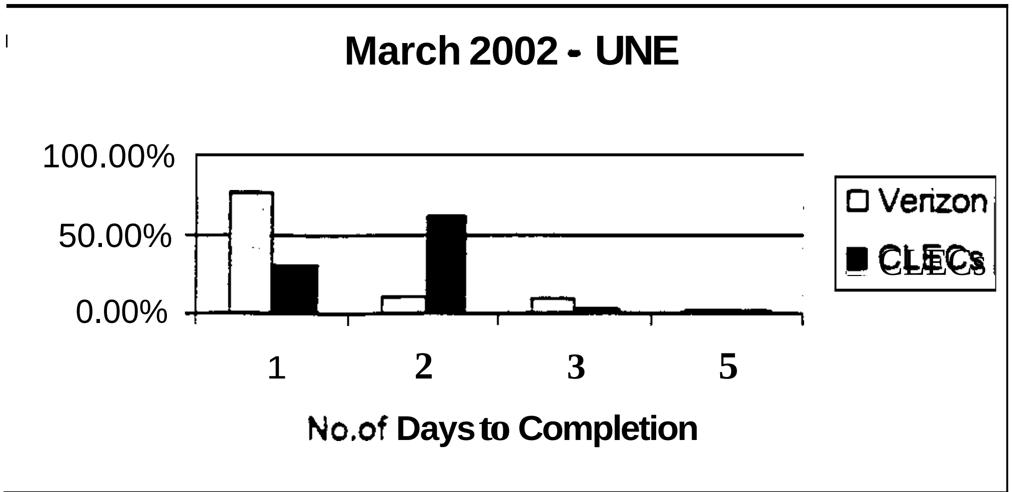

April 2002 - Resale
80.00%
60.00%
40.00%
20.00%
0.00%
1
2
3
5
No. of Days to Completion
Verizon
CLECs

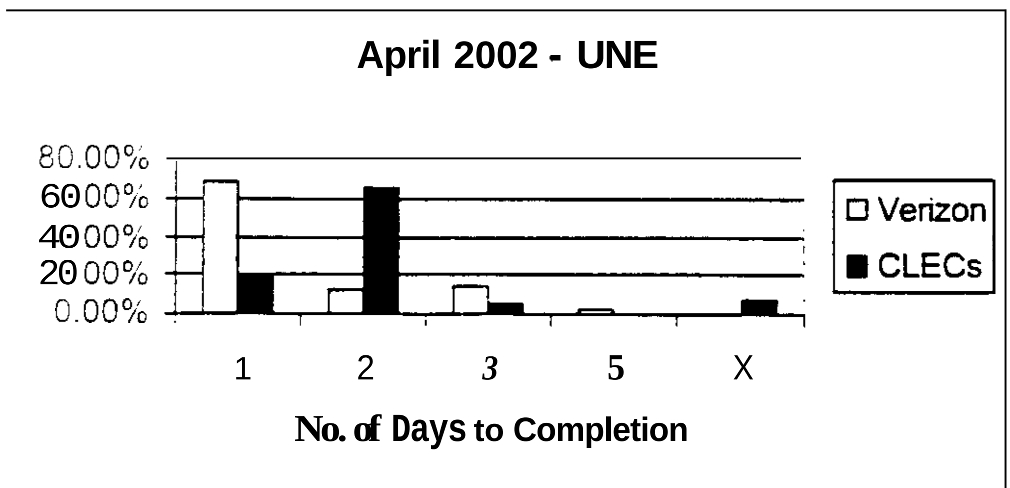
25 The graphs above indicate that Verizon DC has not consistently achieved parity in its provisioning of resale services to CLECs versus its own retail orders In February, for example. Verizon DC provisioned 71% of its retail orders compared to *63%* of the CLEC resale orders **within** one business day. Another 15% of Verizon **DC's** retail **orders** were installed by the end of two business days. compared to 13% of CLEC resale orders. By the end of the third business day. 11% more Verizon DC retail orders were completed. **vs. 23%** of the resale **orders.** By the end of the **fifth** business day. another 3% of Verizon DC's retail orders were completed compared to 1% for CLEC orders Thus in general. the February graph shows that resale orders were somewhat delayed relative *to installation* of Verizon DC's own retail orders and CLEC customers waited (on average) one additional business day to receive service compared to Verizon DC's retail customers While Verizon DC's reported retail performance during the month of April appears better (and as shown in Table **5.** it passed on each of these metrics that month). the Commission should review several months' worth of more recent data before concluding that Verizon DC is consistently achieving parity on these metrics.

The next set of bar graphs depict provisioning intervals for UNE service orders and



compares the results to the same set of Vernon DC retail orders as described above. Similar to the earlier series of graphs above, they plot the percentage of total orders of each type (here, UNE vs retail orders) installed within one, two, three, five, or more ("A") days. The graphs for March and April 2002 appear on the following page


March 2002 - UNE
100.00%
50.00%
0.00%
1
2
3
5
No. of Days to Completion
Verizon
CLECs


April 2002 - UNE
80.00%
60.00%
40.00%
20.00%
0.00%
1
2
3
5
X
No. of Days to Completion
Verizon
CLECs

27. The above UNE bar graphs suggest Verizon DC has been installing its own retail lines faster than the wholesale UNEs ordered by competing carriers. Therefore. Verizon has not been passing the required parity test for this metric. The most striking example of this type of delayed installation is evident in February. Verizon DC installed 70.55% of its retail orders within one business day compared to only 15.53% of the UNE orders. A full 99.21% of retail orders were installed within five busmess days. while only 56.31% of the CLEC's UNE orders were installed within five business days Thus. nearly 44% of the UNE orders rook longer than 5 business days to install, while virtually all of Venzon DC's retail orders were completed. These type of delays can unnecessarily duninish the level of CLEC customer satisfaction. Of course. customers blame CLECs for delays in their service even when the CLECs are dependent upon the ILEC to provide the underlying wholesale service or facility. Although some Improvement appeared in Venzon DC's March and April results for installation of CLEC UNE orders. the majority of UNE orders installed shifted from five or more business days to 2 business days while the vast majority of retail orders for both months were installed in one business day.

28. Because Venzon DC has supplied only three months worth of memcs data in support of its Section 271 filing with the Commission, my analysis of the installation data available to date does not conclusively establish thar Venzon DC is discriminating against CLECs in its installation performance for wholesale services relative to installations performed for Verizon's own end users. However Verizon DC's substandard problem in this area does point to potential discrimination, which

should be closely scrutinized by the Commission. Consequently. I recommend that the Commission obtain more recent installation performance results from the Company and analyze that data in **the** manner that I have described above. In that way. the Commission *can* determine **whether** Verizon's current problems relative to the timeliness of service **installations for CLECs within** specific time frames is a more systemic problem that **must be** remedied **prior to approval** of its **request for** Section **271** authority

Checklist Items 4 and 5: Verizon DC's construction policy and practices discriminate against CLECs in the provisioning of DS1/DS3 unbundled loops and interoffice transport when facilities are not immediately available.

29 The 1996 Telecommunications Act. **as** well **as** the FCC **rules** implementing the **Act's** unbundling requirements, prohibit an incumbent local exchange carrier (ILEC) such **as** Verizon-RI from providing access to and use of unbundled network elements (UNEs) in a discriminatory manner. Section 251(c)(3) of the Act requires ILECs to provide "to any requesting telecommunications carrier for the provision of *a* telecommunications service, nondiscriminatory access to network elements **on** an unbundled basis **a**: any technically feasible point on rates. terms. and conditions that **are just**, reasonable, and nondiscriminatory." When the FCC considered how **this** requirement should be implemented in its *Local Competition Order*, it determined that non-discriminatory **provision of UNEs** went beyond providing equal treatment to all competitive LECs (CLECs) who requested them, and necessarily encompassed **as well** the ILEC's own access to those network elements, ***i.e.*** to **serve its** retail customers. As expressed by the FCC

> The duty to provide unbundled network elements on "terms. and conditions that are just, reasonable. and nondiscriminatory" means, at a minimum, that whatever those terms and conditions are, they must be offered equally to all *requesting* carriers, and where applicable. they must be equal to the terms and conditions under which the incumbent LEC provisions such elements to itself. We also conclude that, because section 251(c)(3) includes the terms "just" and "reasonable," ***this duty encompasses more than the obligation to treat carriers equally.*** Interpreting these terms in light of the 1996 Act's goal of promoting local exchange competition, and the benefits inherent in such competition, we conclude that these terms require incumbent LECs to provide unbundled elements under terms and conditions that would provide an efficient competitor with a meaningful opportunity to compete. Such terms and conditions should serve to promote fair and efficient competition. This means. for example. that ***incumbent LECs may not provision unbundled elements that are inferior in quality to what the incumbent provides itself because this would likely deny an efficient comperiror a meaningful opportunity to compete.*** We reach this conclusion because providing new entrants, including small entities, with a meaningful opportunity to compere is a necessary precondition to obtaining the benefits that the opening of local exchange markets to competirion is designed to achieve.[37]

30 The non-discriminatory standard aniculated therein has since been affirmed and augmented by the FCC on numerous occasions as it has evaluated Bell operating company applications for Section 271 authority to provide interLATA services In its more recent Section 271 reviews, the FCC has expressed the non-discrimination standard that is applicable when a comparable ~ t a iservice

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[37] *Local Competition Order.* 15661 pan 315 (footnote omitted, emphasis supplied). See also 47 C.F.R. §51.307 and §51.311, which codify the FCC's non-discrimination rules for UNEs.

offering exists in the following terms:

> First, for those functions the BOC provides to competing carriers that are analogous to the functions a BOC provides to itself in connection with its own retail service offerings, the BOC must provide access to competing carriers in "substantially the same time and manner" as it provides to itself. Thus, where a retail analogue exists, a BOC must provide access that is equal to (i.e. substantially the same as) the level of access that the BOC provides itself, its customers, or its affiliates, in term of quality, accuracy, and timeliness.[38]

31. As this statement makes clear, the non-discrimination standard applies to all of the terms and conditions on which network elements are offered, including the ILEC's performance in fulfilling service orders (provisioning), and not just the quality of the network elements once they have been provided. Thus, Verizon's comparative performance (wholesale vs. retail) in DS1/DS3 network element provisioning - both its timeliness in fulfilling service requests, and its acceptance/rejection of such service requests when facilities are not immediately available - are subject to this standard for non-discriminatory conduct.

32. Verizon DC's provision of DS1 and DS3 loop network elements in the District appears to fail to comply with this standard. As explained in detail below, Verizon claims that its provisioning policy is uniform throughout its service territory, and in other jurisdictions, Verizon has admitted that it applies unequal treatment to DS1 and DS3 UNE loop and interoffice ("IOF") orders from CLECs

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[38] *SBC Kansas/Oklahoma* Order, 6151-6252 paras. 28-29. See also the ***Bell Atlantic New York Order***, 3971 para 44; *Ameritech Michigan* **Order,** 20618-19 referenced therein.